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Honorable Frank L. Kurtz  
CHAPTER: 13  
HEARING DATE:  
HEARING TIME:  
RESPONSE DATE:

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9  
10 IN THE UNITED STATES BANKRUPTCY COURT

11 EASTERN DISTRICT OF WASHINGTON – SPOKANE/YAKIMA DIVISION

12 In re

No. 10-02401-FLK

13 MARCELINO OSORIO, JR AND CARRIE  
14 A. OSORIO,

ORDER GRANTING STIPULATION RE:  
AVOIDANCE OF LIEN

Debtor(s).

15  
16 This matter, having come before the court on the Stipulation Re: Avoidance of Lien  
17 filed by The Bank of New York Mellon Trust Company, National Association fka The Bank of New  
18 York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee for  
19 RSMSII2005HSA1 ("Movant"), and the court having reviewed all documents filed in support of and  
20 in opposition to said Stipulation, and having heard any argument of counsel, and having reviewed  
21 the records and files herein, and otherwise being fully advised in the premises, now, therefore,

22 IT IS HEREBY ORDERED:

- 23 1. Creditor's claim shall be allowed as a non-priority general unsecured claim;  
24 2. The avoidance of Creditor's Second Deed of Trust is contingent upon  
25 Debtors' completion of a Chapter 13 Plan and the Debtors' Chapter 13 discharge  
26 3. Upon receipt of Debtors' Chapter 13 discharge and completion of a Chapter  
27 13 Plan, this stipulation and the corresponding order thereon may be recorded by Debtor by the  
28 Spokane/Yakima County Recorder's Office;  
4. Creditor shall retain its lien for the full amount due under the Subject Loan in

ORDER GRANTING STIPULATION RE: AVOIDANCE OF LIEN

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1 the event of either the dismissal of Debtor's Chapter 13 case or the conversion of the Debtors'  
2 Chapter 13 case to any other Chapter under the United States Bankruptcy Code;

3           5.       In the event that the holder of the first lien on the Subject Property forecloses  
4 on its security interest and extinguishes Creditor's Second Deed of Trust prior to the Debtors'  
5 completion of a Chapter 13 Plan and receipt of a Chapter 13 discharge, Creditor's lien shall attach to  
6 the surplus proceeds of the foreclose sale for the full amount of the Subject Loan balance at the time  
7 of the sale; and

8           6.       Each party shall bear their own attorneys fees and costs incurred incident to  
9 the negotiation and preparation of the instant stipulation.

10  
11 Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. BANKRUPTCY JUDGE

12  
13 Presented By

PITE DUNCAN, LLP

/s/ Jesse A. P. Baker

Jesse A. P. Baker WSBA# 36077

Attorneys for The Bank of New York Mellon Trust  
Company, National Association fka The Bank of  
New York Trust Company, N.A. as successor to  
JPMorgan Chase Bank N.A. as Trustee for RFSMII  
2005HSA1